

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

UNITED STATES OF AMERICA

VERSUS

CRIMINAL ACTION NO. 1:08CR121

DAMION LUNDY

ORDER

This cause is before the Court on the defendant's Motion for Continuance [36]. The Court, having reviewed the motion and being otherwise fully advised in the premises, finds as follows, to-wit:

The trial of this matter is currently set for January 25, 2010. Defense counsel represent in the motion that they have a conflict due to a prior existing trial setting. Rule 16.3 of the Uniform Local Rules provides: "When the Court has set a case for trial . . . which conflicts with a court appearance of counsel in other courts, the first case having a firm setting shall control" The Court is also advised that the government does not oppose the requested continuance. Based on the foregoing, the Court finds that the defendant's motion is well-taken and should be granted.

These circumstances enable the Court to exclude, pursuant to 18 U.S.C. § 3161(h)(7)(A), the period of delay from January 25, 2010 until the new trial date to be set in this matter. The time is excludable under subsection (h)(7)(A) because a continuance is necessary to ensure the availability of defense counsel at the trial of this cause. Therefore, the Court finds that the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS, THEREFORE, ORDERED AND ADJUDGED that

1. The defendant's Motion for Continuance [36] is GRANTED;
2. That the trial of this matter is continued until Monday, April 26, 2010 at 9:00 a.m. in the United States District Courthouse in Greenville, Mississippi; multiple voir dire is to be held at the same time and place;
3. That the delay from January 26, 2010 until April 26, 2010 is excluded as set out above;
4. That the deadline for filing pretrial motions is April 5, 2010;
5. That the deadline for submitting a plea agreement is April 12, 2010.

SO ORDERED, this the 13th day of January, 2010.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE